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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,852	01/25/2002	Lori A. Frauenhofer	2002B012	1578

23455 7590 11/14/2003

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EXAMINER
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AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/14/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

C1010

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/057,852	FRAUENHOFER, LORI A.	
	<b>Examiner</b> Nasser Ahmad	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 August 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7 and 11-17 is/are rejected.

7) Claim(s) 8-10 and 18-20 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 9.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1- 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schuhmann (5,876,857).

Schuhmann relates to a co-extruded label (abstract) facestock comprising a core layer including at least 50% polypropylene and balance of an ethylene-containing polyolefin (col. 3, lines 15-41). The core layer is provided with at least one outer skin layer (col. 9, lines 22-27) which can be polyolefinic material provided on opposing sides of the core. The thickness of the core layer is 8-120 microns and the skin layer is 0.5-5.0 microns thick (col. 9, lines 37-42) which includes the claimed thickness range. The laminate is biaxially oriented with 6-11 degree of orientation in the transverse direction and 4-7 degree of orientation in the machine or longitudinal direction (col. 10, lines 45-47). The ethylene content in the ethylene-containing polyolefin is 10% or less (col. 3, lines 27-30) which includes the range of 2-4% and the polyolefin can be ethylene-propylene

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copolymer or ethylene propylene butylenes terpolymer. The skin layer includes 0.1 to 2.0% by weight silica particles which are known as antiblock agent.

The characteristics of squeezability, dispensability, and die-cutability would be inherent of the label facestock because all the other components being the same as claimed.

The intended use phrase such as "for forming conformable..." have not been given patentable weight because said phrases are not found to be of positive limitations.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-7 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuhmann in view of Josephy (5,585,193).

Schuhmann, as discussed above, fails to teach that the label includes pressure sensitive adhesive layer with a release liner. Josephy relates to a label comprising a facestock and an adhesive layer (58) as shown in figure-1 and a release liner (10). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Josephy's teaching of using an adhesive layer covered with a release liner and adhered to a label facestock in the invention of Schuhmann with the motivation to provide for adherability to a substrate and a protective cover for the adhesive.

The claimed characteristics of the facestock would be obvious based on all the components being the same in Schuhmann.

6. The declaration under 37 CFR 1.132 filed August 25, 2003 is sufficient to overcome the rejection of claims 1-20 based upon 35 USC 112, first paragraph made in paper no. 4, paragraph-3, mailed on April 23, 2003.

7. Claims 8-10 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The claims are free of the prior art for reasons provided in paper no. 4, paragraph-6.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can normally be reached on Monday through Thursday from 7:30AM to 5:00PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Nasser Ahmad*  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772

N. Ahmad.

November 13, 2003.